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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,599	06/24/2003	Bao-Kun Lai	LAIB3003/EM	1493

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EXAMINER

EINSMANN, MARGARET V

ART UNIT PAPER NUMBER

1751

DATE MAILED: 11/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
10/601,599	LAI ET AL.	
Examiner	Art Unit	
Margaret Einsmann	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/24/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2, 4-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Russ et al., EP 0 668 328 A2. Schrell discloses a dye mixture which comprises 21.8% of Dye B26 with the remainder being dye B34. See example 72 at the bottom of page 17. Dye B26 disclosed on page 30 lines 25 et seq as being applicant's claimed dye of formula I in claim 1, Ia in claim 4, and I-1 in claim 8; Dye B34 is disclosed on page 33 lines 25 et seq. as being applicant's claimed dye II as claimed in claim 1, dye IIa as in claim 5 and dye II-1as in claim 9. Regarding method claims 10 and 11, the Derwent abstract states, "The mixts. are used for dyeing and printing fibrous materials contg. OH and/or carbonamido gps, pref cellulose fibres, esp. cotton...." Accordingly since all of the material limitations of the claims are met, the claims are anticipated.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russ et al. Russ is relied upon as set forth in the above rejection. He does not disclose a composition which comprises the claimed dyes in the proportions claimed in claim 3. It would have been obvious to the skilled artisan to formulate the mixture in the claimed range because Russ et al. teaches that the dyes are compatible in mixtures, and are used for the same purpose under the same process conditions. Accordingly, if one desires a different tonal quality, or color shade it is notoriously well known in the art to adjust the proportion of the colorant components to formulate a different shade.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corso, US 4,448,583. Corso discloses storage stable compositions of reactive dyes containing beta-sulfatoethylsulfonyl groups. Claim 1 claims that said compositions may contain mixtures of said dyestuffs. Claim 8 discloses both of applicant's claimed dyestuffs in their narrowest embodiments, (I-1 and II-1). The anthraquinone dye is dye I disclosed in col 11 lines 40 et seq and applicant's claimed copper complex dye is dye XIX at the bottom of columns 13 and 14. Corso differs from the instant claims in that there is no example of a mixture, nor are the percentage or ratio of the dyes to each other disclosed. The subject would have been obvious to the skilled artisan that the combination of dye I and Dye XIX would form a stable solution in any proportions since Corso teaches how to make stable solutions, and since no ratio of dyes are defined, the mixture in any proportions would be expected to be stable.

Schrell et al., US 5,565,00 and its equivalent EP683251 A2 are provided as disclosing the two claimed dyestuffs used to dye viscose rayon.


Art Unit: 1751

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 571-272-1314. The examiner can normally be reached on 7:00 AM -4:30 PM M-Th and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 3, 2004


Margaret Einsmann
Primary Examiner
Art Unit 1751